

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ NOV 14 2023 ★

LONG ISLAND OFFICE

STANDARD PLEA FORM

23 -CR- 327 (JS)

-----X
UNITED STATES OF AMERICA

-against-

SAMUEL MIELE,

Defendant

-----X

THE DEFENDANT IS OBLIGATED TO READ AND COMPLETE

THE QUESTIONS AS SET FORTH BELOW.

THE GOVERNMENT MUST FIRST ANSWER QUESTIONS 25, 26, 27 and 52

BEFORE THE DEFENDANT FILLS OUT THIS PLEA FORM.

TO THE DEFENDANT:

- (1) Before accepting your plea, there are a number of questions I must ask to assure that it is a valid plea. If you do not understand any of my questions, please say so and I will reword the question.
- (2) The Courtroom Deputy will swear the defendant.
- (3) Do you understand that, having been sworn, your answers to my questions will be subject to the penalties of perjury or of making a false statement if you do not answer truthfully?

YES ☒ NO ☐

- (4) What is your full name?

Samuel A. Miele

- (5) How old are you?

27

(6) Are you a citizen of the United States? *(If you are NOT a citizen, answer questions 6A and 6B.)*
YES ☒ NO ☐

(6A) Have you discussed with your counsel whether your guilty plea will have any effect on your ability to remain in this country?
YES ☐ NO ☐

(6B) Are you satisfied that you understand the effect that a guilty plea in this case may have on your right to remain in this country after any sentence is served?
YES ☐ NO ☐

(7) What is the highest schooling or education you have had?
College degree (BA)

(8) Are you presently or have you been recently under the care of a physician or psychiatrist?
YES ☐ NO ☒

(9) In the past 24 hours, have you taken any narcotic drugs, medicine or pills or drunk any alcoholic beverage?
YES ☐ NO ☒

(10) Have you ever been hospitalized or treated for narcotic addiction?
YES ☐ NO ☒

(11) Is your mind clear?
YES ☒ NO ☐

(12) Do you understand what is going on here during this proceeding?
YES ☒ NO ☐

TO DEFENSE COUNSEL:

(13) Have you discussed this matter with your client?
YES ☒ NO ☐

(14) Does he/she understand the rights he/she would be waiving by pleading guilty?

YES ☒ NO ☐

(15) Is he/she capable of understanding the nature of these proceedings?

YES ☒ NO ☐

(16) Do you have any doubt as to the defendant's competency to plead at this time?

YES ☐ NO ☒

TO THE DEFENDANT:

(17) You have a right to plead not guilty.

Do you understand?

YES ☒ NO ☐

(18) If you plead not guilty, under the constitution and laws of the United States, you are entitled to a speedy and public trial by jury with the assistance of counsel on the charges.

Do you understand?

YES ☒ NO ☐

(19) At the trial, you would be presumed to be innocent. The Government would have to overcome that presumption and prove you guilty by competent evidence and beyond a reasonable doubt.

You would not have to prove that you are innocent. If the Government failed, the jury would have the duty to find you not guilty.

Do you understand?

YES ☒ NO ☐

(20) In the course of the trial, witnesses for the Government will have to come to court and testify in your presence and your counsel will have the right to cross-examine them and object to evidence offered by the Government and to offer evidence on your behalf.

Do you understand?

YES ☒ NO ☐

- (21) At the trial, while you would have the right to testify if you choose to do so, you will not be required to testify. Under the Constitution of the United States, you cannot be compelled to incriminate yourself. If you decided not to testify, the Court would instruct the jury that they could not hold that against you.

Do you understand?

YES ☒ NO ☐

- (22) If you plead guilty, and if I accept the plea, you will be giving up your constitutional rights to a trial and the other rights I have just discussed. There will be no further trial of any kind and no right to appeal, or collaterally attack, the question of whether you are guilty or not. A judgment of guilty will be entered based on your guilty plea and that judgment can never be challenged. However, you may have the right to appeal with respect to the sentence imposed.

Do you understand?

YES ☒ NO ☐

- (23) If you plead guilty, I will have to ask you questions about what you did to satisfy myself that you are guilty of the charge(s) to which you seek to plead guilty. You will have to answer my questions and acknowledge your guilt; thus, you will be giving up your right not to incriminate yourself.

Do you understand?

YES ☒ NO ☐

- (24) Are you willing to give up your right to a trial and the other rights I have just discussed?

YES ☒ NO ☐

TO THE GOVERNMENT:

(25) What agreement, if any, do you have concerning the plea and sentence?

(Please print clearly and legibly.)

The parties have agreed to the terms contained in a written Plea Agreement.

No other promises, agreements, or conditions have been entered by the parties other than those set forth in the Plea Agreement.

(26) List whether there is any waiver of appeal, or other waiver of rights included in the plea

agreement: *(Please print clearly and legibly.)*

1) his right to file an appeal or otherwise challenge, by petition pursuant to 28 U.S.C. § 2255 or any other provision, his conviction or sentence in the event the Court imposes a term of imprisonment of 37 months or below (P.A. ¶ 6)

2) any defenses based on the statute of limitations and venue with respect to any prosecution that is not time-barred on the date that the Plea Agreement is signed in the event that (a) his conviction is later vacated for any reason, (b) he violates the Plea Agreement, or (c) his plea is later withdrawn. (P.A. ¶ 6)

3) his right to raise on appeal or on collateral review any argument that (a) the statute to which he is pleading guilty is unconstitutional and (b) the admitted conduct does not fall within the scope of the statute. (P.A. ¶ 6)

4) his right to additional disclosure from the government in connection with the guilty plea (P.A. ¶ 6)

5) all statutory deadlines with respect to the Forfeiture Money Judgment, including but not limited to deadlines set forth in 18 U.S.C. §983. (P.A. ¶ 9)

6) his right to any required notice concerning the forfeiture of any monies and/or properties forfeited pursuant to the Plea Agreement, including notice set forth in an indictment, information or administrative notice and his right, if any, to a jury trial on the entry of a forfeiture money judgment, and all constitutional, legal and equitable defenses to the forfeiture of said monies and/or properties, including, but not limited to, any defense based on principles of double jeopardy, the Ex Post Facto clause of the Constitution, any applicable statute of limitations, venue, or any defense under the Eighth Amendment, including a claim of excessive fines. (P.A. ¶ 14)

(27) List the elements of the crime charged in the (Superseding) Indictment/Information:

(Please print clearly and legibly.)

First, that there was a scheme or artifice to defraud or to obtain money or property by materially false and fraudulent pretenses, representations or promises;

Second, that the defendant knowingly and willfully participated in the scheme or artifice to defraud, with knowledge of its fraudulent nature and with specific intent to defraud, or that he knowingly and intentionally aided and abetted others in the scheme; and

Third, that in execution of that scheme, the defendant used or caused the use of interstate wires, as specified in the indictment.

2 Modern Federal Jury Instructions—Criminal ¶ 44.01, Instr. 44-3.

TO THE DEFENDANT:

- (28) Are you aware of the elements of the crime which you are charged and which you are to plead guilty to?

YES ☒ NO ☐

- (29) Have you discussed with your counsel the charge(s) and the (Superseding) Indictment/Information to which you intend to plead guilty?

YES ☒ NO ☐

- (30) Do you understand the charge(s) in the (Superseding) Indictment/Information which you are pleading guilty to?

YES ☒ NO ☐

- (31) Do you know the maximum sentence and any fines I might impose on each of the charges to which you are seeking to plead guilty to?

YES ☒ NO ☐

- (32) The maximum possible penalty under count One is 20 months/years imprisonment, plus a fine of \$ 250,000 or twice the loss. *(If there are more than one count to which the defendant intends to plea, please answer (32A and 32B), as needed.)*

(32A) The maximum possible penalty under count _____ is _____ months/years imprisonment, plus a fine of \$ _____.

(32B) The maximum possible penalty under count _____ is _____ months/years imprisonment, plus a fine of \$ _____.

- (33) Do you realize that there is a \$100 Special Assessment fine for each count?

Corporate defendant(s) have a \$400.00 Special Assessment fine for each count.

YES ☒ NO ☐

- (34) Do you realize that the Court may order Restitution to be paid to any victims of the crime?

YES ☒ NO ☐

- (35) Do you realize that if any time of imprisonment is imposed, a period of three years of Supervised Release must be imposed to follow?

YES ☒ NO ☐

- (36) Have you discussed the Sentencing Guidelines with your attorney?

YES ☒ NO ☐

- (37) Do you understand that the Sentencing Guidelines are not mandatory, but that in sentencing, the Court is required to consider the applicable guideline range along with the statutory factors listed in 18 U.S.C. § 3553(a), and that the Court will consider the nature and circumstances of the offence and your criminal history?

YES ☒ NO ☐

- (38) I will now read the statutory factors listed in 18 U.S.C. § 3553(a):

The court must impose a sentence sufficient, but not greater than necessary:

- 1 a) to reflect the seriousness of the offense,
- b) to promote respect for the law, and
- c) to provide just punishment for the offense;
- 2) to afford deterrence as to other criminal conduct; and
- 3) to protect the public from further crimes by you.

At sentencing, the Court must also consider your cooperation if the Government submits a 5K1.1 letter.

- (39) Has your attorney explained these factors listed in 18 U.S.C. § 3553(a)?

YES ☒ NO ☐

- (40) Do you realize that if the sentence is more severe than you expected, you will be bound by your guilty plea and will not be permitted to withdraw it?

YES ☒ NO ☐

(41) Do you have any questions you would like to ask me about the charge(s), your rights, or anything else relating to this matter?

YES _____ NO ☒

(42) Are you ready to plead?

YES ☒ NO _____

TO DEFENSE COUNSEL:

(43) Do you know any legal reason why your client should not plead guilty?

YES _____ NO ☒

TO THE DEFENDANT:

(44) Are you satisfied with your legal representation up until this point?

YES ☒ NO _____

(45) Do you believe your lawyer has done a good job?

YES ☒ NO _____

(46) What is your plea?

GUILTY ☒ NOT GUILTY _____

(47) Are you making the plea of guilty voluntarily and of your own free will?

YES ☒ NO _____

(48) Has anyone threatened or forced you to plead guilty?

YES _____ NO ☒

(49) Other than the agreement with the Government as stated on the record, has anyone made any promises that caused you to plead guilty?

YES _____ NO ☒

(50) Has anyone made any promise to you as to what your sentence will be?

YES _____ NO ☒

(51) Describe in your own words what you did in connection with the acts charged in count(s)

One of the (Superseding) Indictment/Information in which you are pleading
guilty: *(Please print clearly and legibly.)*

Between August and December of 2021, I pretended I was the Chief of Staff to the Speaker of the House of Representatives in some telephone calls and emails with potential donors, including an email on August 19, 2021, which used interstate wires. I did that to help me raise funds for the congressional campaign I was working on. I know that by doing this I committed a crime known as wire fraud.

In addition, between November of 2020 and January of this year, I caused approximately \$100,000 to be charged to several donors' credit cards without their permission. I used some of those funds as donations to a candidate for Congress and some for my own expenses. I know that by doing this I committed a crime known as access device fraud.

The congressional campaign and its accounts were in parts of New York that I understand are in the Eastern District of New York.

(52) The Government will now outline their proof of the crime charged in the (Superseding)

Indictment/Information: *(Please print clearly and legibly.)*

The government respectfully refers to its statements on the record.

(53) Based upon the information given to me, I find the defendant is acting voluntarily, fully understands his/her rights and the consequences of his/her plea and that there is a factual basis for the plea. I, therefore, accept the plea of guilty to count(s) One of the (Superseding) Indictment/Information.

SIGNATURE:



(Defendant)

Samuel Miele

(Defendant – Printed Name)



(Counsel)

Kevin H. Marino

(Counsel – Printed Name)

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